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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R. S .A. No. 1186 of 2004
Date of decision: 12.11.2007

The Estate Officer, Haryana Urban Development Authority, Karnal

...Appellant

Versus

K.L.Sardana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. B.S.Walia, Advocate for the appellant.

Mr. Parminder Singh, Advocate for respondent No. 1

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RAJESH BINDAL, J.

The challenge in the present appeal is to the judgment and decree of the learned Lower Appellate Court whereby appeal filed by the appellant was dismissed whereas appeal filed by respondent No.1 against judgment and decree of the trial Court was partially accepted.

The challenge in the suit filed by respondent no.1/plaintiff was to the notice dated September 2, 1996 issued by the appellant raising demand of Rs. 96,619/-. The demand was sought to be raised as additional price on account of enhancement in the compensation for the land acquired. The trial Court partially accepted the plea raised by respondent no.1/plaintiff while directing that principal amount of enhancement being Rs. 31,441.65 paise and notice for demand for the same having been issued for the first time on June 13, 1990, the interest will accrue from that date and that too at the rate of 10% per annum as against 18% per annum demanded by the appellant. In further appeal by respondent no.1/plaintiff before the Lower Appellate court, the judgment and decree of the learned trial Court was modified to the extent that appellant was held entitled to interest only from the date of issue of notice i.e. September 2, 1996 as against earlier notice dated June 13, 1990. It was for the reason that appellant had not been able to prove on record the service of notice dated

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June 13, 1990. In terms of the judgment of this court in **Charanjit Bajaj and others Vs. The State of Haryana and others 1986 PLJ 601,** the appellant was held entitled to claim interest on the enhanced amount of compensation only from the date the notice was served on the plot holders and not prior thereto. This finding was recorded on appreciation of evidence brought on record in the form of No Dues Certificate issued to respondent no.1/plaintiff in 1996 at the time of taking of possession by him and also the fact that though allotment of plot was made by appellant to respondent no.1/plaintiff on June 13, 1990 and the compensation for the land acquired had already been enhanced upto this Court vide judgment dated June 9, 1989 but still the same did not form part of the allotment price but was sought to be claimed as additional price on account of enhanced compensation. The despatch of notice also could not be proved. Learned counsel for the appellant had not been able to point out any evidence on record, which could lead to the conclusion that findings recorded by the Lower Appellate Court regarding non-service of notice for demand of enhanced compensation on June 13, 1990 were perverse. Once that is so, in my opinion, no illegality has been committed by the learned Court below in directing payment of interest to the appellant from the date of service of notice i.e. September 2, 1996.

No substantial question of law arises.

The appeal is accordingly dismissed.

November 12, 2007 **(Rajesh Bindal)**
Pka **Judge**